

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

G8 DEVELOPMENT, INC.,

Plaintiff,

v.

CITY OF MASON CITY, IOWA and MASON
CITY CHAMBER OF COMMERCE
FOUNDATION,

Defendants.

Case No. _____

PETITION AT LAW

COMES NOW the Plaintiff, G8 Development, Inc., and for its causes of action and Petition at Law against the above-named Defendants, states the following:

THE PARTIES, JURISDICTION AND VENUE

1. The Plaintiff in this matter is G8 Development, Inc. (hereinafter “G8”).
2. G8 is in the business of real estate development and is a California corporation licensed to do business in the State of Iowa, with a principal business addressed as 4538 Cass Street, San Diego, California 92109.
3. Upon information and belief, the City of Mason City, Iowa (hereinafter the “City”) is a municipal corporation organized under the provisions of the Constitution and the laws of the State of Iowa and is vested with the power to enter into contracts and carry out its obligations thereunder.
4. Upon information and belief, the official actions taken by the City, including entering into contracts, is subject to ratification and approval by a legally constituted City Council.
5. Upon information and belief, the Mason City Chamber of Commerce Foundation (hereinafter “the Chamber”) is an Iowa Nonprofit Corporation existing and established under Iowa

Code Chapter 504, with a principal place of business located in Mason City, Cerro Gordo County, Iowa.

6. The actions and conduct giving rise to these causes of action took place in Mason City, Cerro Gordo County, Iowa and venue is, therefore, proper herein

7. The damages alleged herein exceed the jurisdictional minimum for an amount in controversy in this District Court.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. G8 and the City have been in continual negotiations for contracting to build a hotel since 2013.

9. The City submitted grant applications to the State of Iowa for funding assistance grants in the calendar year 2014.

10. The State of Iowa turned down the City's 2014 grant application.

11. The 2014 failure to obtain grant funding from the State of Iowa slowed the negotiations between the City and G8.

12. Again, in 2015, the City submitted grant applications to the State of Iowa for funding assistance.

13. The State of Iowa granted the City's 2015 grant application, and agreed to offer grants in the range of \$7,000,000 to assist with urban renewal within the City.

14. On or about January 20, 2016, G8 and the City entered into a written "Purchase, Sale and Development Agreement" (hereinafter "Development Contract"). A true and complete copy of the Development Contract is attached hereto as Exhibit A.

15. Approval of the City's entry into the Development Contract with G8 was ratified by the City Council of Mason City in February of 2016.

16. Prior to the execution of the Development Contract, the City had undertaken efforts for urban renewal within the City in an area dubbed the “Mason City Downtown Reinvestment Urban Renewal Area” (referred to in the Development Contract and hereinafter as “Urban Renewal Area”).

17. Pursuant to the Development Contract, the City identified its ownership rights in certain real property located within the Urban Renewal Area (hereinafter referred to as the “Development Property”).

18. Pursuant to the Development Contract, the City identified its willingness to transfer ownership of the Development Property to G8, within timeframes and under terms as established in the Development Contract, in exchange for G8’s agreement to make certain improvements to the Development Property.

19. As a result of these transfer clauses contained in the Development Contract, G8 had an expectancy interest in the future based in the Development Contract.

20. In reliance on the Development Contract, G8 expended nearly \$600,000.00 in reliance costs in connection with its performance of the Development Contract.

21. The Development Contract inured to the benefit of the City as a means of economic development and cured blight within the Urban Renewal Area.

22. The Development Contract referred to the anticipated improvements as “Minimum Improvements” and contemplated the construction of a business class hotel and what was referred to as a “Parking Facility.”

23. At all times pertinent hereto, G8 held exclusive contractual franchise rights to build a Marriott franchise hotel in Mason City in connection with the Development Contract.

COUNT I – BREACH OF CONTRACT AGAINST CITY

24. The aforementioned Development Contract between G8 and the City was valid and enforceable.

25. During the negotiation and pendency of the Development Contract, the City continually sought to impose upon G8 artificial and extra-contractual obligations that were not in good faith and that were not part of the Development Contract, including, but not necessarily limited to:

- a. altering the long-expected scope of the project to satisfy the requests the City had to meet to receive State of Iowa grant funding, including as related to a mixed-use requirement imposed by the State;
- b. requiring Requests for Proposals, that the City suggested to G8 were only perfunctory, and that would not affect G8's rights under the eventual Development Contract;
- c. imposing arbitrary deadlines related to the submission of construction drawings;
- d. imposing arbitrary deadlines related to construction lending and loan commitments;
- e. arbitrarily delaying G8's ability to meet its obligations under the Development Contract by mis-platting the site whereby requiring G8's architects and engineers to rearrange its site plan on the existing lot lines;
- f. requiring approval of new site plans by a City Architectural Review committee.

26. Each of these artificial and extra-contractual obligations imposed upon G8 by the City severely shortened the timelines set forth in the Development Contract and made complete performance by G8 impossible or impracticable.

27. Notwithstanding these arbitrary and extra-contractual obligations, G8, in reliance on the required good faith and fair dealing requirements that the law of the State of Iowa imposes on the City, spent significant sums of money in meeting its contractual requirements.

28. G8 likewise had significant expectation interests in the Development Contract, in that the ownership of the development in part reverted to G8 after the passage of time.

29. The City terminated the Development Contract with G8, arguing G8 was in default concerning the timelines in the Development Contract.

30. The termination was not in good faith, as it was the artificial and extra-contractual obligations the City imposed upon G8 that were responsible for the delays.

31. As a result of the bad faith termination of the Development Contract, G8 has been damaged in the form of the reliance damages it incurred in beginning its performance and the future expectation interests it would have received had the Development Contract not been wrongly terminated by the City.

**COUNT II - QUANTUM MERUIT – IMPLIED IN
FACT CONTRACT AGAINST CITY**

32. As G8 began its performance of the Development Contract, G8 was performing services that the City was aware were inuring to the benefit of the City under the Development Contract.

33. The City had no expectation, and no right to expect, that G8 was performing these services gratuitously.

34. While the Development Contract did not specify that the reliance costs G8 was expending in preparation for performance would be separately reimbursed outside of the Development Contract, the City knew, or should have known, that its bad faith termination of the Development Contract would damage G8.

35. The reliance costs expended by G8 were of a benefit to the City, as part of its efforts at urban renewal within the City.

36. The requirements of good faith and fair dealing accompanying the Development Contract require that G8 be reimbursed for its reliance costs.

37. G8 has been damaged as a result of the monies spent on reliance costs.

**COUNT III - INTENTIONAL INTERFERENCE WITH
CONTRACT AGAINST CHAMBER**

38. The stated mission of the Chamber is, in part, to “work for the success of its members.”

39. G8, at all times pertinent herein, was a member of the Chamber.

40. An individual named Robin Anderson is the current Director of the Chamber and held that same position at all times material hereto.

41. Anderson and the Chamber were aware that G8 and the City had a valid contract in the form of the aforementioned Development Contract.

42. Upon information and belief, the Chamber intentionally and improperly interfered with the Development Contract by, among other things, Robin Anderson, in her capacity as Director of the Chamber, having “secret” meetings with certain members of the City Council and encouraging them to terminate the G8 Development Contract in favor of another proposal being offered by an entity known as Gatehouse Capital.

43. The interference caused the City to terminate the Development Contract and affected G8’s ability to perform and complete its obligations under the contract.

44. As a result of this intentional interference by the Chamber, G8 was damaged as its Development Contract was wrongly terminated and it suffered reliance damages and loss of expectancy interests.

WHEREFORE, the Plaintiff prays that the Court enter Judgment in favor of the Plaintiff and against all of the Defendants, jointly and severally, and further that an award of damages be made in favor of the Plaintiff, including attorney fees allowed under the Development Agreement, along with other and further relief as deemed appropriate.

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